



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2011 Biennium

|                         |               |                |   |
|-------------------------|---------------|----------------|---|
| <b>Bill #</b>           | HB0642        | <b>Title:</b>  | Certain centrally assessed pipelines are class 9 property |
| <b>Primary Sponsor:</b> | French, Julie | <b>Status:</b> | As Introduced   |

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input type="checkbox"/> Needs to be included in HB 2  | <input type="checkbox"/> Technical Concerns              |
| <input type="checkbox"/> Included in the Executive Budget        | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

|   | <u>FY 2010<br/>Difference</u> | <u>FY 2011<br/>Difference</u> | <u>FY 2012<br/>Difference</u> | <u>FY 2013<br/>Difference</u> |
|---|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <b>Expenditures:</b>                    |                               |                               |                               |                               |
| General Fund                            | \$0                           | \$892,430                     | (\$1,511,608)                 | (\$1,512,333)                 |
| <b>Revenue:</b>                         |                               |                               |                               |                               |
| General Fund                            | \$3,893,722                   | \$4,115,664                   | \$4,313,216                   | \$4,520,250                   |
| State Special Revenue                   | \$245,920                     | \$259,937                     | \$272,414                     | \$285,490                     |
| <b>Net Impact-General Fund Balance:</b> | <u>\$3,893,722</u>            | <u>\$3,223,234</u>            | <u>\$5,824,824</u>            | <u>\$6,032,583</u>            |

### Description of fiscal impact:

A recent Montana Supreme Court decision relating to the property taxation of natural gas pipelines will result in reduction in revenue for the state general fund, the university state special revenue fund, local governments and school districts. This bill clarifies the definitions of centrally assessed pipeline property, for purposes of classification and assessment. The bill will increase state general fund revenues and university system state special revenue fund revenue relative to the court decision.

### FISCAL ANALYSIS

#### Assumptions:

#### **Department of Revenue**

1. The denial by the Montana Supreme Court of a petition for a rehearing of *Omimex vs. Montana* (ruling of December 2nd, 2008) on February 10, 2009 effectively shifts some class 9 (12% tax rate) property into class 8 (3% tax rate), reducing statewide taxable value. Both HJR 2 and the school funding calculations have not accounted for this change in taxable value. This fiscal note is written with the assumption that the court decision is current law. The court decision will result in annual reductions of approximately \$3.7 million in general fund revenue, and \$234,000 in university state special revenue if the decision had applied to TY 2008 property. An analysis of this revenue loss by level of government is presented below:

**Estimated Annual Statewide Impact on TY 2008 Property Tax Revenue  
Due to *Ominex vs. Dept. of Revenue*  
Montana Supreme Court Decision of December 2, 2008**

| <b>Action</b>   | <b>State General<br/>Fund<br/>(95 mills)</b> | <b>University<br/>SSR Fund<br/>(6 mills)</b> | <b>Local<br/>Government</b> | <b>Local School<br/>Districts</b> |
|---|--|--|-----------------------------|-----------------------------------|
| Move Natural Gas Pipeline Property from Class 9 (12%) to Class 8 (3%) | (\$3,683,748)                                | (\$232,658)                                  | (\$5,948,284)               | (\$5,575,389)                     |

2. The change in revenue relative to HJR 2 is a reduction of \$3.7 million in general fund revenue and a reduction of \$233,000 in university state special revenue.
3. The Department of Revenue (DOR) analyzed the expected impacts of the Montana Supreme Court decision using the Utility Assessment System (UAS) computer database for TY 2008. All of the property of the eight natural gas pipelines was assumed to move from class 9 (12%) to class 8 (3%). This established the baseline for analyzing the impacts of this bill.
4. This bill applies to TY 2005 and succeeding tax years. As a result, the department's assessments of the eight natural gas pipelines as class 9 property (12%) in TY 2005 and succeeding tax years would not be changed, and the potential future reduction in tax revenues due to the Montana Supreme Court decision would be avoided.
5. Specifically this bill amends 15-6-141, MCA (class 9 property) to clarify that centrally assessed natural gas, oil, and product pipelines are class 9 property (12%), and that carbon dioxide pipelines and liquid pipelines that do not meet the requirements for inclusion in property class 15 (3%) are class 9 property.
6. The increases in revenues due to this bill would be the same as the reductions in revenues due to the Montana Supreme Court decision. If this bill were applied to TY 2008 property, the following impacts would have resulted:

**HB 642: Estimated Annual Statewide Impact on Tax Revenue TY 2008**

|  | <b>General Fund<br/>(95 mills)</b> | <b>University<br/>SSR (6 mills)</b> | <b>Local<br/>Governments</b> | <b>School<br/>Districts</b> |
|--|------------------------------------|-------------------------------------|------------------------------|-----------------------------|
| Natural Gas Pipeline Property from Class 8 (3%) to Class 9 (12%) | \$3,683,748                        | \$232,658                           | \$5,948,284                  | \$5,575,389                 |

7. The HJR 2 forecast growth rate for class 9 taxable value for FY 2010 and FY 2011 are 5.7% for each year. The Office of Budget and Program Planning's forecast growth rates for class 9 taxable value for FY 2012 and FY 2013 are 4.80% for each year. The following table shows the calculation of the revenue impacts for FY 2010 through FY 2013.

**HB 642: Estimated Fiscal Impact FY 2010 through FY 2013**

|                                      | <b>TY 2008<br/>Basis</b> | <b>FY 2010</b>   | <b>FY 2011</b>   | <b>FY 2012</b>   | <b>FY 2013</b>   |
|--------------------------------------|--------------------------|------------------|------------------|------------------|------------------|
| Assumed Growth Rate Class 9          |                          | 5.7%             | 5.7%             | 4.8%             | 4.8%             |
| State General Fund (95 mills)        | \$3,683,748              | \$3,893,722      | \$4,115,664      | \$4,313,216      | \$4,520,250      |
| University System SSR Fund (6 mills) | <u>\$232,658</u>         | <u>\$245,920</u> | <u>\$259,937</u> | <u>\$272,414</u> | <u>\$285,490</u> |
| Subtotal state revenue impact        | \$3,916,406              | \$4,139,641      | \$4,375,601      | \$4,585,630      | \$4,805,740      |
| Local Government Funds               | \$5,948,284              | \$6,287,336      | \$6,645,714      | \$6,964,709      | \$7,299,015      |
| Local School Funds                   | \$5,575,389              | \$5,893,186      | \$6,229,098      | \$6,528,094      | \$6,841,443      |

8. The bill provides for retroactive applicability to December 31, 2004, and thus applies to TY 2005 and succeeding tax years.
9. This bill will have no impact on administrative costs for the department of revenue.

**Office of Public Instruction**

10. The increase in taxable value and the distribution of that property due to HB 642 would create a GTB cost to the state general fund of about \$0.6 million in FY 2011, in subsequent years the new distribution of taxable value would decrease GTB costs by approximately \$ 1.1 million per year.
11. County school levies for all district funds will not change revenue received due to HB 642 as local school districts would adjust mills. The amount each taxpayer will pay will change based on property classification.
12. Countywide retirement GTB will increase due to the increase in property tax values by approximately \$268,500 in FY 2011. This is based on a historical average of 28% of the costs paid by the state and FY 2009 county levies of \$65.1 million (1.4732% increase in property tax value X \$65.1 million X 28%). It is assumed that county wide retirement GTB payments would change to the same degree that statewide GTB payments change. This would generate an annual savings of approximately \$450,000 per year.

|   | <u>FY 2010<br/>Difference</u> | <u>FY 2011<br/>Difference</u> | <u>FY 2012<br/>Difference</u> | <u>FY 2013<br/>Difference</u> |
|---|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <b><u>Fiscal Impact:</u></b>  |                               |                               |                               |                               |
| <b>Department of Revenue</b>  |                               |                               |                               |                               |
| <b><u>Revenues:</u></b>   |                               |                               |                               |                               |
| General Fund (01)   | \$3,893,722                   | \$4,115,664                   | \$4,313,216                   | \$4,520,250                   |
| State Special Revenue (02)  | \$245,920                     | \$259,937                     | \$272,414                     | \$285,490                     |
| <b>TOTAL Revenues</b>   | <u>\$4,139,642</u>            | <u>\$4,375,601</u>            | <u>\$4,585,630</u>            | <u>\$4,805,740</u>            |
| <b>Office of Public Instruction</b>   |                               |                               |                               |                               |
| <b><u>Expenditures:</u></b>   |                               |                               |                               |                               |
| Local Assitance:  |                               |                               |                               |                               |
| GTB   | \$0                           | \$623,896                     | (\$1,056,761)                 | (\$1,057,268)                 |
| County Retirement (GTB)   | \$0                           | \$268,534                     | (\$454,847)                   | (\$455,065)                   |
| <b>TOTAL Expenditures</b>   | <u>\$0</u>                    | <u>\$892,430</u>              | <u>(\$1,511,608)</u>          | <u>(\$1,512,333)</u>          |
| <b><u>Funding of Expenditures:</u></b>  |                               |                               |                               |                               |
| General Fund (01)   | \$0                           | \$892,430                     | (\$1,511,608)                 | (\$1,512,333)                 |
| State Special Revenue (02)  | \$0                           | \$0                           | \$0                           | \$0                           |
| <b>TOTAL Funding of Exp.</b>  | <u>\$0</u>                    | <u>\$892,430</u>              | <u>(\$1,511,608)</u>          | <u>(\$1,512,333)</u>          |
| <b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b> |                               |                               |                               |                               |
| General Fund (01)   | \$3,893,722                   | \$3,223,234                   | \$5,824,824                   | \$6,032,583                   |
| State Special Revenue (02)  | \$245,920                     | \$259,937                     | \$272,414                     | \$285,490                     |

**Effect on County or Other Local Revenues or Expenditures:**

1. County and other local government revenues would increase by \$6.3 million in FY 2011 growing to \$7.3 million in FY 2013. Local School Districts would see an increase in revenue of \$5.9 million in FY 2010 increasing to \$6.8 million in FY 2013 (see assumption 6).

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*Sponsor's Initials*\_\_\_\_\_  
*Date*\_\_\_\_\_  
*Budget Director's Initials*\_\_\_\_\_  
*Date*